

Chapter 5.41

SALVAGING, RECYCLING AND COMPOSTING OPERATIONS

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5.41.010 General Definitions.

The following words as used in this chapter shall have the following meanings:

BIODEGRADABLE shall mean material capable of decomposing or deteriorating to simple gasses, organic compounds or other harmless components after exposure to natural elements for not more than one year.

COMMERCIAL COMPOSTING OPERATION shall mean any premises that is maintained, used, or operated wholly or partially for accepting, receiving or otherwise utilizing organic materials that originated or are derived off the premises for composting on the premises. Commercial composting operation includes any profit or not for profit operation that collects or accepts organic materials from a premises other than the premises where the composting occurs.

COMPOSTING shall mean the controlled aerobic, thermophilic, microbial degradation of organic material to a stabilized, humus-like material. Composting shall not include land application of organic material that is worked into the soil.

CONSUMER RECYCLABLES shall mean:

- (1) Containers capable of holding six gallons or less made of glass, aluminum, plastic or tin;
- (2) Newspapers and other office or household waste paper; and
- (3) Other recyclables designated in writing, approved by the Director, and on file at the Health Department.

DIRECTOR shall mean the Health Director of the Lincoln-Lancaster County Health Department or an authorized representative of the same.

DWELLING UNIT shall mean any building or portion thereof that is designed and used for residential purposes.

NON-OPERATING shall mean the object cannot be immediately moved or used for its designed purpose, without alteration or repair.

OPERATOR shall mean any person engaged in the activities of owning or operating any of the following operations as defined herein: salvage, recycling processing center, recycling center, recyclables drop-off, or commercial composting.

ORGANIC MATERIALS shall mean any biodegradable: lawn clippings and leaves; raw sewage or treated sewage sludge; animal or paunch manure; any other plant or food residue; or a mixture of any of the above.

PREMISES shall mean a tract of land used for any operation or activity regulated under this chapter consisting of one platted lot or irregular tract or more than one platted lot or irregular tract, provided such lots or tracts are under common ownership and contiguous.

RECYCLABLES shall mean the following materials that, for the purpose of recycling, are separated or otherwise diverted from waste destined for disposal: wood, paper, glass, plastics, metals, automobile oil, tires, and batteries. Refuse derived fuels or other materials that are destroyed by incineration are not recyclables. Salvage material as defined herein is not a recyclable.

RECYCLABLES DROP-OFF OPERATION shall mean any premises that is maintained, used, or operated wholly or partially for collecting any consumer recyclables that originated off the premises where the recycling occurs; provided that there is no mechanical equipment for separating or modifying recyclable materials used or stored on the premises. Recyclables drop-off operation shall not include:

- (1) Any business or operation accepting consumer recyclables without charge or payment therefor as a courtesy to its customers and as an incidental part of their ongoing business;
- (2) Any properly equipped motor vehicle service station or repair shop accepting motor vehicle waste oil or automotive batteries as an incidental part of their ongoing business.

RECYCLING shall mean accepting, processing, storing, holding, keeping, receiving, reusing, collecting, dealing, buying, selling, or separating recyclables. Recycling shall not include electrical or chemical modifying; or any type of wrecking, converting or dismantling of recyclables.

RECYCLING CENTER shall mean any premises that is maintained, used, or operated wholly or partially for recycling any consumer recyclables that originated off the premises where the recycling occurs.

Recycling Center includes both profit and not for profit operations.

RECYCLING PROCESSING CENTER shall mean any premises that is maintained, used, or operated wholly or partially for recycling any recyclables that originated off the premises where the recycling occurs. Such recycling may include mechanical equipment for separating or modifying recyclable materials. Such modifying shall be limited to cutting, crushing, breaking, baling, and shredding.

Recycling Processing Center includes both profit and not for profit operations.

SALVAGE MATERIAL shall include:

- (1) Dismantled, non-operating or wrecked automobiles, trucks, trailers, equipment, machinery, mobile homes, tractors, or farm machinery, appliances, other vehicles or parts thereof; or
- (2) Scrap metals including iron, steel, and any other metallic materials except recyclables as defined herein;

SALVAGE OPERATION shall mean any premises that is maintained, used, or operated wholly or partially for storing, holding, keeping, receiving, reusing, wrecking, dismantling, recycling, collecting, dealing, buying, or selling salvage material.

Salvage operation may include any activities of a Recycling Processing Center Operation as defined herein and may store, hold, keep, receive, reuse, wreck, dismantle, recycle, collect, deal, buy, or sell recyclables. Such activities shall be subject to all operating requirements applicable to salvage operations.

Salvage operation shall not include premises where used parts are sold but no wrecking or dismantling occurs. (Ord. 16602 §1; May 2, 1994).

5.41.020 Permit Required; Penalty.

It shall be unlawful for any person to engage in, carry on, conduct, operate, or maintain a salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation within the city, or three miles thereof, without first having obtained a written permit from the Director for such activities. Any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period not to exceed six months or by a fine of not less than \$150.00 nor more than \$500.00 recoverable with costs, or both such fine and imprisonment. (Ord. 16602 §2; May 2, 1994).

5.41.030 Permit; Application, Investigation.

(a) Any person may apply for a permit to operate or maintain a salvage operation, recycling processing center operation, recycling center operation, recyclables drop-off operation, or commercial composting operation within the city, or three miles thereof, by submitting the application information requirements together with the related permit fee and occupation tax, if any, to the Director.

(b) The Director shall review such application information and upon payment of the related permit fee and occupation tax, if any, shall issue such permit within a reasonable time not to exceed sixty days if such operation is or will be in compliance with all requirements of this chapter and all other applicable city ordinances and regulations.

(c) Investigations shall be made by the necessary city departments to determine whether any such operation will be in compliance with all requirements of this chapter and all other applicable city ordinances and regulations. (Ord. 16602 §3; May 2, 1994).

5.41.040 Application Information Requirements.

(a) The applicant shall complete forms provided by the Director, supplying at a minimum, the following information:

- (1) The name and address of the applicant;

- (2) The exact location of the premises;
 - (3) The exact nature of the activities related to the permit;
 - (4) The location and dimensions of any buildings on the premises, including any building to be used, in whole or in part, in the permitted activities; and
 - (5) Such other pertinent information as requested on such forms.
- (b) For existing permit holders, application information shall be included on forms for renewal provided by the Director to verify and update such information. (Ord. 16602 §4; May 2, 1994).

5.41.050 Permit; Fee.

- (a) Each operator shall pay to the Director a permit fee with each permit application as follows:

(1)	Salvage Operations	\$20.00
(2)	Recycling Processing Center Operations	\$10.00
(3)	Recycling Center Operations	\$10.00
(4)	Recyclables Drop-off Operations	No Charge
(5)	Commercial Composting Operations	\$20.00

- (b) Such permit fees are non-refundable. (Ord. 16602 §5; May 2, 1994).

5.41.060 Occupation Tax.

There is hereby levied upon the business of every person engaged in the business of operating or conducting any salvage operation or commercial composting operation an occupation tax of \$125.00 per year. The City Treasurer shall place forty percent of such tax receipts in the General Fund for Building and Safety purposes and the remainder in the Health Department Fund. The year for which such occupation tax is levied shall commence on the first day of August and shall end on the thirty-first day of July next succeeding, and such occupation tax shall not be prorated, except for the year expiring July 31, 1994; the tax for the remaining portion of said year shall be \$75.00. (Ord. 16602 §6; May 2, 1994).

5.41.070 Occupation Tax Payment; Late Fee; Penalty.

It is hereby made the duty of every person engaged in the business of operating or conducting any salvage operation or commercial composting operation to pay the City Treasurer the above occupation tax as follows: All applicants for new or renewal permits shall pay such occupation tax at the time of application or renewal. If the tax remains unpaid after expiration of any permit required for the continuing operation of such business, such business shall pay a late fee of \$50.00 and all overdue payments shall accrue interest at a rate of one percent per month. If the tax remains unpaid for ninety days or more after expiration of any permit required for the continuing operation of such business, such business shall pay a penalty of five percent in addition to any late fee and interest charges. (Ord. 16602 §7; May 2, 1994).

5.41.080 Permit; Expiration.

All permits granted under this chapter shall expire on the thirty-first day of July following the date of issuance. (Ord. 16602 §8; May 2, 1994).

5.41.090 Permit; Revocation and Suspension.

(a) The Director may revoke or suspend any permit granted under this chapter if the Director determines:

(1) The permittee has failed to comply with this chapter or any provision of law applicable to the premises, equipment, or operation of the permitted operation; or

(2) The permittee has obtained his or her permit through any fraud or misstatement; or

(3) The permitted operation is being conducted in a manner detrimental to the health, safety, or general welfare of the public, or is a nuisance, or is being operated in any unlawful manner; or

(4) The permitted operation is no longer being operated by the permittee.

(b) Such suspension or revocation shall state in writing the reasons for the same and shall notify the permittee of the opportunity for hearing provided in § 5.41.100.

(c) Such suspension or revocation may be delivered in person or by mail to the address provided in the application or by any other suitable and effective means.

(d) No suspension or revocation shall be effective until after the ten- day period provided for appeal. If an appeal is filed it shall operate as a stay to such suspension or revocation.

(e) Nothing in this section shall limit the authority of the Director to take any legal measure to abate any hazard or immediate threat to the public health. (Ord. 16602 §9; May 2, 1994).

5.41.100 Permit; Hearing.

(a) Any person aggrieved by the Director granting, denying, renewing, or revoking a permit for a proposed or existing operation subject to the provisions of this chapter, may file a written request for a hearing before the Director within ten days after such action.

(b) The Director shall give notice of a public hearing upon this request to be held within thirty days after service on the person requesting the hearing. The Director may also give notice of the hearing to other interested persons.

(c) At such hearing, the Director shall determine whether the granting, denial, renewal, or revocation of the permit was in accordance with the provisions of this chapter and shall issue a written findings of fact, conclusions of law, and a written order. These findings of fact, conclusions of law, and order shall be filed by the Director and served upon all parties appearing or represented at said hearing. (Ord. 16602 §10; May 2, 1994).

5.41.110 General Operating Requirements.

The operator of any operation requiring a permit under this chapter shall:

(a) Plainly display on the premises the permit issued pursuant to this chapter.

(b) Maintain the premises in a safe and sanitary condition at all times, including taking prompt action to eliminate any nuisance conditions.

(c) Arrange material so as to permit easy access to all such material for fire fighting purposes.

(d) Where outside storage of material is permitted, keep any such materials within a suitable fence. (Such fence shall be designed and maintained to prevent unauthorized entry).

(e) Remove from the premises, at reasonable times, all material other than salvage material or recyclables.

(f) Store all flammable material properly to reduce fire hazards.

(g) Where applicable, remove and collect, within ninety days after arrival at the permitted premises or prior to crushing or other salvage processing, whichever is earlier, all gasoline and batteries from any material containing the same.

(h) Where applicable, remove any chlorinated fluorocarbons from any materials containing the same: within ninety days after arrival at the permitted premises, prior to processing of the item for salvage, or prior to sale or removal from the permitted premises, whichever occurs first; provided the same may be removed for remote processing of chlorinated fluoro carbons.

(i) Where applicable and whenever possible, remove and collect oil, lubricants, batteries, gasoline and chlorinated fluorocarbons in such manner as to promote recycling or reuse of said materials.

(j) Where applicable, drain all oil and grease from motor vehicles being dismantled on the premises into a receptacle capable of holding same.

(k) Where applicable, prevent the discharge of flammable or combustible liquids or any waste liquid containing crude petroleum or its products into or upon any street, highway, drainage canal, or ditch, storm drain, sewer or flood control channel, lake or tidal waterway, or upon the ground.

(l) Where applicable, properly and promptly clean any accidental spills of petroleum products, solvents or any other hazardous or potentially hazardous substance.

(m) Comply with all applicable local, state, and federal laws, ordinances, rules, and regulations. (Ord. 16602 §11; May 2, 1994).

5.41.120 Recycling Processing Center; Operating Requirements.

(a) The operator of any recycling processing center shall:

(1) Conduct any cutting, crushing, breaking, baling, and shredding only within an enclosed structure on the premises. Such structure shall comply with all applicable fire, building, safety and health codes.

(2) Clearly designate any voluntary drop-off site area on the premises.

(3) Store recyclables, including any use of the designated voluntary drop-off site area on the premises for storage only within covered containers or under covers.

(b) The operator of any recycling processing center shall not cause or permit the following:

(1) Any mechanical, chemical, or electrical processing that changes the shape or appearance of the recyclables on the permitted premises other than cutting, crushing, breaking, baling, and shredding.

(2) Any handling, receiving or processing of hazardous materials as defined by state or federal law, without the appropriate permit or approval under such laws. (Ord. 16602 §12; May 2, 1994).

5.41.130 Recycling Center; Operating Requirements.

(a) The operator of any recycling center shall:

(1) Accept only consumer recyclables as defined in this chapter.

(2) Conduct any recycling within an enclosed structure on the premises. Such structure shall comply with all applicable fire, building, safety and health codes.

(3) Clearly designate any voluntary drop-off site area on the premises.

(4) Store recyclables, including any use of the designated voluntary drop-off site area on the premises for storage only within covered containers or under covers.

- (b) The operator of any recycling center shall not cause or permit the following:
 - (1) Any mechanical, chemical or processing that changes the shape or appearance of the recyclables on the permitted premises.
 - (2) Any handling, receiving or processing of hazardous materials as defined by state or federal law, without the appropriate permit or approval under such laws and the written approval of the Director. (Ord. 16602 §13; May 2, 1994).

5.41.140 Recyclables Drop-off; Operating Requirements.

- (a) The operator of any recyclables drop-off operation shall:
 - (1) Accept only consumer recyclables as defined in this chapter.
 - (2) Use or provide containers for recyclables no taller than seven feet from the ground to the top of the container, except that the operator may use or provide taller containers with the Director's approval.
 - (3) Protect containers for recyclables so as to prevent water from collecting in the container and its contents.
 - (4) Store all materials in acceptable containers for recyclables provided on site.
 - (5) Provide sufficient containers and sites, adequately serviced to prevent overflow.
 - (6) Permanently display at each site at least one sign displaying:
 - (i) The name, street address, and telephone number of the operator;
 - (ii) The type or kind of recyclables accepted at the site;
 - (iii) A notice that it is illegal to: leave unacceptable material at the site; place materials outside the containers provided; remove materials left at the site; or litter.
- (b) The operator of any recyclables drop-off shall not cause or permit the following:
 - (1) Any use of semi-trailers, trailers and truck boxes not originally designed for recycling operations as containers for recyclables.
 - (2) Any mechanical separating or processing of recyclables on the premises.
 - (3) Any use or operation of powered equipment on the premises except equipment used to bring recyclables to the site, remove recyclables from the site, or maintain and clean the site.
 - (4) Any collection of recyclable materials from the premises or maintenance using powered equipment on the premises between the hours of 7:00 p.m. and 6:00 a.m. on any day. (Ord. 16602 §14; May 2, 1994).

5.41.150 Commercial Composting Operating Requirements.

- (a) The operator of any commercial composting operation shall:
 - (1) Prevent the release of chemical or other contaminants related to or caused by the operation that create a potential hazard or an actual detriment to the public health or the environment.
 - (2) Erect and maintain suitable fencing around the premises consisting of a wire and steel post fence or other fencing materials approved by the Director with gates to control access and discourage illegal dumping at the site.
 - (3) Properly secure or lock gates and other points of entry to the premises at all times when the premises are unattended.

(4) Post a sign at each gate and other point of entry to the premises that states the operator's name, address, and emergency telephone number.

(5) Comply with all other applicable local, state, and federal ordinances, laws, or regulations.

(b) The operator of any commercial composting operation shall not:

(1) Conduct any composting within 750 feet to the nearest neighboring inhabitable dwelling unit located off the premises.

(2) Locate the composting premises within the 100 year flood plain or within any areas with chronic or repeated drainage problems. (Ord. 16602 §15; May 2, 1994).

5.41.160 Inspections.

All salvage and commercial composting operations permitted under this Chapter shall be inspected at least once a year by the Lincoln-Lancaster County Health Department and the Lincoln Department of Building and Safety for compliance with this chapter and all other applicable provisions of law. The Director and the Director of Building and Safety shall inspect all permitted operations for compliance with this chapter and all other applicable provisions of law as they shall deem appropriate under the general supervision of the Mayor. (Ord. 16602 §16; May 2, 1994).

5.41.170 Nuisance Conditions.

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises within the city, or within three miles of the corporate limits thereof, to conduct any recycling, composting, salvage operation, salvage yard, scrap processing, or recyclables drop-off in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) If the Director finds that conditions exist that are a detriment to the public health, safety, or welfare, or are otherwise a public nuisance, the Director shall abate the same as a public nuisance as provided in §8.26.030.

(c) Conditions detrimental to the public health, safety, and welfare related to recycling, composting, salvage operation, salvage yard, scrap processing, or recyclables drop-off operations shall include the failure to:

(1) Prevent or remove standing water likely to become a breeding place for mosquitoes.

(2) Keep weeds and vegetation on the premises, other than trees, shrubs, and vines, trimmed to a height of not more than six inches.

(3) Remove or keep from the premises any materials liable to give off a foul odor or attract vermin.

(4) Prevent recyclables, organic materials or other material from resting upon or protruding over any public street, walkway, or other public property.

(5) Prevent recyclables, organic material or other material from scattering or blowing off the premises.

(6) Prevent or remove any conditions that are conducive to the existence and breeding of rodents or insects.

(7) Take reasonable measures to prevent the access of animals including dogs, cats, skunks, opossums, or raccoons to the area related to the activity. (Ord. 16602 §17; May 2, 1994).

5.41.180 Residential Recycling; Nuisance Conditions.

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises in any residential district within the city or within three miles of the corporate limits thereof to conduct any recycling upon such premises in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) Conditions detrimental to the public health, safety, and welfare related to residential recycling shall also include:

(1) Failure to comply with all provisions of Chapter 27.70 of this code pertaining to home occupations.

(2) Recycling within twenty-five feet of any dwelling unit off the premises.

(3) Recycling that produces any odor that is detectable off the premises by an odor detection and measurement device.

(4) Holding materials collected for recycling on the premises for more than two weeks.

(5) Recycling of materials other than consumer recyclables.

(6) Accepting, receiving or permitting on the premises mixed municipal solid waste generated or derived from off the premises for the purpose of separating and sorting recyclables from such waste.

(7) Exceeding the residential noise limits described in Table 1 of Chapter 8.24.090 of the Lincoln Municipal Code.

(8) Burning recyclables or other materials by any means on the premises.

(9) Causing, permitting or allowing recycling or related activities between the hours of 10:00 p.m. and 7:00 a.m.

(10) Causing, permitting, or allowing the public to deposit or drop-off recyclables on the premises by maintaining or designating facilities or otherwise.

(c) Any premises found to be in violation of the above conditions is declared to be a public nuisance and may be abated by the Director in the manner provided in § 8.26.030. (Ord. 16602 §18; May 2, 1994).

5.41.190 Residential Composting; Nuisance Conditions.

(a) It shall be the duty of every owner, lessee, tenant, or occupant of any premises in any residential zone within the city, or within three miles of the corporate limits thereof, to conduct any composting upon such premises in a safe and sanitary manner so as not to permit, keep, or maintain thereon any condition detrimental to the public health, safety and welfare.

(b) Conditions detrimental to the public health, safety and welfare related to residential composting shall also include:

(1) Composting of any organic materials that are not generated or derived from the same premises.

(2) Composting activity within twenty-five feet of any dwelling unit off the premises.

(3) Composting that produces any odor that is detectable off the premises by an odor detection and measurement device.

(4) Composting that involves human body wastes; fecal or other body wastes from dogs, cats and other animals; meat or dairy organic material; raw sewage or treated sewage sludge; animal or paunch manure; or any other material that is not biodegradable.

(c) Any premises found to be in violation of the above conditions is declared to be a public nuisance and may be abated by the Director in the manner provided in § 8.26.030. (Ord. 16602 §19; May 2, 1994).

5.41.200 Penalty.

(a) Any person upon whom a duty is placed by the provisions of this chapter who shall fail or neglect or refuse to perform such duty, or who shall violate any of the provisions of this chapter where a penalty is not otherwise specifically provided, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a period of not to exceed six months or by a fine of not more than \$500.00, recoverable with costs, or both such fine and imprisonment.

(b) Each day that a violation continues shall constitute a separate and distinct offense and shall be punishable as such.

(c) The penalty herein provided shall be cumulative with and in addition to the revocation, cancellation, or forfeiture of the permit provided for by this chapter. (Ord. 16602 §20; May 2, 1994).